IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

AND
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION No.17375 of 2004

Between:

M.Venkatesham, S/o.Manikappa,
R/o.3-5-263, Rachannapet, Zaheerabad,
Medak District.

..... PETITIONER

AND

1. The District Collector, Medak District at Sangareddy.
2. The Chairman, Municipal Council, Zaheerabad Municipality, Zaheerabad (Medak Dist).
3. The Commissioner, Municipal Council, Zaheerabad Municipal Council, Zaheerabad Municipality, Zaheerabad.
4. Mr.Nagender Gowli,
   R/o.H.No.3-5-143 (Ward No.11), Rachannapet, Zaheerabad.

.....RESPONDENTS.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ of Mandamus or any other appropriate writ or order or orders or direction or directions to respondent No.1 to stop respondents Nos.2 to 4, from making constructions on the Middle of the Municipal Road in Rachannapet, Zaheerabad, Medak District by demolishing the Iron Fencing constructed on the Middle of the Municipal Road in Rachannapet, Zaheerabad, Medak District, by Respondent No.4 and consequently direct Respondent No.1 to stop the Respondents 2 to 4 from

making further constructions on the Municipal Road in Rachannapet Zaheerabad, Medak District, till the final disposal of the main writ petition.

Counsel for the Petitioner: Mr.Y.V.CHALAPATHY RAO

Counsel for Respondent No.1: G.P. FOR REVENUE

Counsel for Respondent Nos.2 and 3: Mr. R.THIMMA REDDY,

S.C. for MUNICIPALITIES.

Counsel for Respondent No.4 : None appeared.

The Court at the stage of admission made the following :

ORAL ORDER: (per the Hon'ble the Chief Justice)

Writ petition has been filed by M.Venkatesham, resident of Rachannapet, Zaheerabad, Medak District, claiming himself to be a social activist belonging to Bharatiya Janata Party (BJP) praying for a direction to respondent No.1 to stop respondents 2 to 4 from proceeding with construction on the middle of the municipal road in Rachannapet, and to demolish the iron fencing alleged to have been constructed in the middle of the road and to restrain respondents 2 to 4 from making further construction in the middle of the road.

Petitioner has alleged that one Sudhakar Patil has also earlier filed W.P.No.4244 of 2004. Writ petition was admitted on 15-3-2004. Notices were served on the respondents, but writ petition was dismissed in default on 12-4-2004.

When this petition came up before us, we directed the record of Writ Petition No.4244 of 2004 be produced before us.

We have gone through the record and heard the learned counsel for the petitioner, Mr.Y.V.Chalapathi Rao, who also appeared in the earlier writ petition filed by Sudhakara Patil.

Earlier writ petition was filed by one Mr. Sudhakara Patil claiming himself to be former District Secretary of BJP and a senior BJP leader with the same complaint as in the present writ petition. The grievance in the said writ petition was also same that respondent No.3 in the said writ petition who is respondent No.4 in the present writ petition by encroaching on the municipal road erected iron fencing. The said writ petition was taken up for hearing on 12-4-2004. After notice had been issued to the respondents, counter affidavit has been filed in the said case by Sri R.Somaiah, Commissioner of Zaheerabad Municipality, stating that the iron fencing erected by third respondent was well within the boundary of the property and there was no

encroachment on the municipal road. Therefore, there was no question of causing any obstruction or inconvenience to the passersby. The respondents therein also denied the fact that there was 20 feet road or M.P. Road from National Highway No.9 to Venkateswara Theatre. As nobody appeared on behalf of the petitioner, taking note of the counter affidavit of the Municipality that there was no encroachment on the municipal road, writ petition was dismissed. Therefore, fresh writ petition for similar relief by the petitioner as public interest litigation cannot be entertained. There is no fresh cause of action and no public interest is involved in this case. The petitioner states that the residents of the locality are finding it inconvenient since there is encroachment on the public road which is causing obstruction. If that be so, it will be pursued by the petitioner by the other remedies available in law. Invoking extraordinary jurisdiction and that also as public interest litigation is wholly misconceived. The decision of the Supreme Court in **B.R. Ramabhadriah v. Secy., F & A Deptt., A.P.** on which reliance is placed by the learned counsel for the petitioner cannot be made applicable to the facts of this case.

Writ petition is dismissed.

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(DEVINDER GUPTA, C.J.)

28th September 2004.

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(C.V.RAMULU, J.)

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To

1. The District Collector, Medak District at Sangareddy.
2. The Chairman, Municipal Council, Zaheerabad Municipality, Zaheerabad (Medak Dist).
3. The Commissioner, Municipal Council, Zaheerabad Municipal Council, Zaheerabad Municipality, Zaheerabad.

4. Two C.Cs to Govt. Pleader for Revenue, High Court Bldgs., Hyderabad (OUT).

5. Two C.D. copies.